

MONTANA SHOOTING SPORTS ASSOCIATION  
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EXHIBIT 4  
DATE 01/17/07  
#B 163

November 13, 2006

Dennis Unsworth  
Commissioner of Political Practices  
1205 8th Ave  
P.O. Box 202401  
Helena, MT 59620-2401

Dennis,

Greetings from Missoula. Congratulations on your new position.

I understand that one of the functions of the Commissioner is to receive and process registration for lobbyists, and that any person must be so registered to legally be paid to appear before the Legislature.

One would suppose that there are circumstances under which you would decline to register a person who had submitted an application to be registered as a lobbyist. An imaginary example might be a person who failed to sign or otherwise complete the application form, or failed to include a check to pay the requisite fee. Another example might be a person under a court order prohibiting them from lobbying because of adjudicated violations of lobbying laws.

I wish to call to your attention a statute in the Montana Codes Annotated that specifically prohibits employees of the Montana Department of Fish, Wildlife and parks from using their official position for the purpose of "influencing the political actions of any person or body."

87-1-204. Political activity of employees. While retaining the right to vote as he may please and to express his opinions on all political questions, no employee of the department may use his official authority or influence for the purpose of interfering with an election or affecting the results thereof or for the purpose of coercing or influencing the political actions of any person or body.

I believe this statute says clearly and specifically that FWP employees may not lobby the legislature. Therefore, I believe it would be improper, perhaps even illegal, for you to allow FWP employees to register as lobbyists.

I do understand that the Legislature needs to be able to request and receive information from executive branch agencies. And, I believe that FWP can provide

information, but only when requested by the Legislature, without lobbying or having their personnel registered as lobbyists. However, any such FWP personnel providing information at legislative request would need to testify on matters before the Legislature as "informational witnesses", not as opponents or proponents, AND that any information offered under those circumstances would need to be neutral in terms of influential impact, or balanced, or both neutral and balanced. Neutral or balanced or both is the test the courts have devised to determine if or when provision of information crosses the line into advocacy.

If I were in charge of FWP, under these circumstances, I would want a written request for information from the Legislature for every occasion when an FWP employee appeared before the Legislature during the normal or extended work hours for that employee, and any time an employee is providing information or comment upon legislation affecting, or potentially affecting, FWP. Possession of such a file of written requests, specific to date and topic of request for information, would help protect FWP employees appropriately providing information from accusations of having violated 87-1-204.

Under these circumstances, providing information only and only upon a written request to do so, I believe FWP personnel can still do as much as is necessary to provide information to the Legislature about executive branch activities, without being registered as lobbyists and without violating 87-1-204.

So, I reiterate that if or when FWP applies to register one or more of their employees as lobbyists, I suggest that you decline any such application because of 87-1-204.

Thank you for your interest in this issue. Please let me know what your policy will be in response to this request.

Sincerely yours,

Gary Marbut  
President

Cc: Greg Petesch, director, Legislative Legal Services Office  
Scott Seacat, Legislative Auditor  
MSSA Board of Directors